

Subpart B—Weight, Gage, and Measure

§ 159.21 Quantity upon which duties based.

Insofar as duties are based upon the quantity of any merchandise, such duties shall be based upon the quantity of such merchandise at the time of its importation, except in the following cases:

(a) *Manipulation in warehouse.* If any merchandise covered by a warehouse entry has been cleaned, sorted, repacked, or otherwise changed in condition under section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562), withdrawals shall be passed and the entry liquidated on the basis of the weight, gauge, or measure of such merchandise in its manipulated condition with an appropriate notation in the duty statement that the duties are assessed on the basis of the manipulated condition of the merchandise.

(b) *Alcoholic beverages.* Duties on certain alcoholic beverages are assessed only on the quantities entered or withdrawn for consumption (see § 159.4).

(c) *Cigars, cigarettes, and cigarette papers and tubes.* Although Customs duties on cigars, cigarettes, and cigarette papers and tubes are assessed on the quantities imported, the internal revenue taxes on such merchandise are assessed only on the quantities entered or withdrawn for consumption (see § 159.5).

(Sec. 315, 46 Stat. 695, as amended; 19 U.S.C. 1315)

[T.D. 73-175, 38 FR 17482, July 2, 1973, as amended by T.D. 80-142, 45 FR 36386, May 30, 1980]

§ 159.22 Net weights and tares.

(a) *Determination of net weight.* The net weight of merchandise dutiable by net weight, or upon a value dependent upon net weight, shall be determined insofar as possible by obtaining the actual weight, or by deducting the actual or schedule tare from the gross weight. Actual tare may be determined on the basis of tests when the tares of the packages in a shipment are reasonably uniform.

(b) *Invoice net weight or tare.* When the actual net weight or tare cannot

reasonably be determined and no schedule tare is applicable, liquidation may be made on the basis of the invoice net weight or tare.

(c) *Schedule tare.* The following tares, which, from experience, have proved to be the average for certain classes of merchandise shall be known as schedule tares and shall be applied, except as provided in paragraph (d) of this section:

Apple boxes. 2.984 kilograms per box. This schedule tare includes the paper wrappers, if any, on the apples.

China clay in so-called half-ton casks: 26.856 kilograms per cask.

Figs in skeleton cases: Actual tare for outer containers plus 13 percent of the gross weight of the inside wooden boxes and figs.

Fresh tomatoes: 113 grams per 100 paper wrappings.

Lemons and oranges: 283 grams per box and 142 grams per half box for paper wrappings, and actual tare for outer containers.

Ocher, dry, in casks: Eight percent of the gross weight.

Ocher, in oil, in casks: Twelve percent of the gross weight.

Pimientos in tins imported from Spain: The following schedule drained weight shall be used as the Customs dutiable weight in the liquidation of entries, the difference between the weight of the new contents of pimientos in tins and such drained weight being the allowance made in liquidation for tare for water:

Size can	Drained weight
3 kilo	13.6 kilograms-case of 6 tins.
794 grams	16.7 kilograms-case of 24 tins.
425 grams	8.0 kilograms-case of 24 tins.
198 grams	3.9 kilograms-case of 24 tins.
113 grams	2.4 kilograms-case of 24 tins.

Tobacco, leaf not stemmed: 5.9 kilograms per bale: Sumatra: actual tare for outside coverings, plus 1.9 kilograms for the inside matting and, if a certificate is attached to the invoice certifying that the bales contain paper wrapping and specifying whether light or heavy paper has been used, either 113 grams or 227 grams for the paper wrapping according to the thickness of paper used.

(d) *Actual tare.* In the following circumstances, the actual tare shall be ascertained and in so doing the weigher shall empty and weigh as many casks, boxes, and other coverings as he may deem necessary: